



Ref. MH/AC/17804

Date : 10th May 2022

ELECTRONIC REGISTERED LETTER

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M. PERES Pierre
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47550 BOE

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Cap Coudalère
66420 Le Barcarès

Sir,

I am writing to you as President of the ASLIC, which brings together all the owners within the scope of this Association Syndicale Libre on the Island of LA COUDALERE.

According to the statutes of this association, in addition to the fact that the ASLIC as an entity is an institutional member, the owners who are members of the ASLIC are also members and members of the CLUB COUDALERE, which is an association governed by the 1901 Act of which you claim to be President.

You are well aware that you occupy in a totally illegitimate and illegal manner the function of President within CLUB COUDALERE, since you are not the holder of a deed of ownership but of a limited right of use and residence of 3 months.

Only the holders of real rights on a lot belonging to the perimeter of the ASLIC are members of the ASLIC.

However, the settlors are the only holders of a real right. Mr. Claude RELLA and Mrs. Stéphanie PERES have only granted you a precarious personal right to their property.

There cannot be two representatives per property. Only the settlor holds the real right of ownership of the lot and not the holder of a personal right of use and residence.

At the very least you can claim the status of benefactor member, provided you pay the membership fee, but in no case this status of benefactor member is open.

At the CLUB COUDALERE General Assembly of May 21, 2021, which appointed you as president, you knowingly proceeded to your election by the CLUB COUDALERE General Assembly and not as indicated by the statutes among the 6 members of the Committee.

However, only adherent members may join the Committee and claim to be appointed President.

This procedural defect that allowed you to be elected in violation of the statutory rules has the consequence that your appointment as President of CLUB COUDALERE is illegitimate and illegal in two respects, because you do not meet the statutory requirements to be an active member of the CLUB COUDALERE and because you do not meet the eligibility requirements to be appointed President.



It goes without saying that the General Assembly of May 21, 2021 that appointed you is null and void.

You were informed of the situation in February 2022, which was the subject of an extensive legal study that you received.

According to this study, the only solution available to you was to withdraw from the position of President of CLUB COUDALERE:

"Loss of membership

Membership is therefore linked to the birth of the "association" contract. It can be lost by resignation (14), striking off for non-payment of contributions (15) or exclusion for serious reason (16) after the implementation of the disciplinary procedure, a procedure always contestable before the courts and which requires respect of heavy formalism (17). It can also be withdrawn automatically when the person no longer meets the statutory requirements: conditions of age, profession, etc. (18).

The case of the Association of Political Science Alumni underscores the importance of these constituent elements of the membership contract. Indeed, if from the outset a person does not fulfil the statutory conditions, the contract of association could not validly be formed: it does not exist. It is therefore possible to withdraw the person's membership without setting up the disciplinary procedure. And all the time spent being considered as a full member of an association could not go against the statutes and create an exemption for the benefit of the person concerned."

Juris associations 2005, no. 316, p.24

Associative member: a statutory notion

To be a member of an association, you have to want to be a member and be recognized as such. And that is sometimes not enough. A recent decision recalls that the statutes have the possibility to determine very precisely which persons are likely to become members.

Juliette Coste, editor.

But you have learned nothing from it.

Also, I urge you to take note of the fact that you do not comply with the statutory and eligibility conditions and to withdraw from the Presidency of CLUB COUDALERE within a week of receipt of this letter.

Otherwise, the interest of all the members of the ASLIC that I represent and who constitute the base of the members of the CLUB COUDALERE requires that the ASLIC acts in nullity of the General Assembly of the CLUB COUDALERE having proceeded to your appointment.

Furthermore, I am also writing to you in my capacity as a member of CLUB COUDALERE, because it would still seem with the same illegitimacy and illegality that you have called an Extraordinary General Assembly and an Ordinary General Assembly for Thursday May 12, 2022 at 9:30 a.m. in the Club House of the ASLIC without having proceeded to the convocation of all the members of the CLUB COUDALERE, of which I am a part.



The invitation to this meeting would have been sent - to my knowledge - only to 30 people, or barely 2.4% of the owners. However, you intend to substantially reform the statutes of the Club COUDALERE by modifying in particular the access and eligibility conditions, by depriving 97.6% of the people concerned of their right of expression. This forced passage, which is only intended to legitimize your function a posteriori, is not acceptable.

Consequently, if these Ordinary and Extraordinary General Assemblies were to be held under the conditions mentioned above on your simple convocation, not only would the ASLIC request the annulment of the AG by which you were elected President in violation of the statutory rules, but in addition it would ask the annulment of the Assemblies to be held.

Regarding the fate of the CLUB COUDALERE, either the Committee will elect a new President at an upcoming AG regularly convened (in terms of time and number of people), or, I reassure you, the ASLIC will appoint by judicial process a provisional administrator whose mission will be to convene a new general meeting, to which will be invited all the owners of the site, in order to allow the restoration of the Club COUDALERE».

Yours faithfully,

p.p.

Mickaël Herschend,
ASLIC President and owner.